



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1638

Introduced 2/22/2007, by Rep. Donald L. Moffitt - Karen May -  
Dave Winters - Paul D. Froehlich

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Prescribed Burning Act. Allows for the prescribed burning of certain land under specified circumstances when approved by a certified prescribed burn manager. Provides that no property owner or his agent, conducting a prescribed burn pursuant to the requirements of the Act, shall be liable for damage or injury caused by fire or resulting smoke, unless gross negligence is proven or unless conducted without the approval of a prescribed burn manager. Provides that the Department of Natural Resources, in consultation with the Office of the State Fire Marshall, shall promulgate rules to implement the Act. Provides that nothing in the Act shall be construed as requiring certification as a prescribed burn manager to conduct prescribed burning on one's own property or on the lands of another with the landowner's permission. Effective immediately.

LRB095 08222 CMK 28392 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning the environment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Prescribed Burning Act.

6 Section 5. Legislative findings; purpose.

7 (a) Prescribed burning is a land management tool that  
8 benefits the safety of the public, the environment, and the  
9 economy of the State. Therefore, the General Assembly finds  
10 that:

11 (1) Most of the State's natural communities require  
12 periodic fire for maintenance of their ecological health.  
13 Prescribed burning is essential to the perpetuation,  
14 restoration, and management of many plant and animal  
15 communities. Significant loss of the State's biological  
16 diversity will occur if fire is excluded from these  
17 fire-dependent communities.

18 (2) Public agencies and non-governmental organizations  
19 in the State have spent millions of dollars to purchase  
20 hundreds of thousands of acres of land for parks, wildlife  
21 areas, State forests, nature preserves and other outdoor  
22 recreational purposes. The use of prescribed burning for  
23 management of these public and private lands is essential

1 to maintain the specific resource values for which these  
2 areas were acquired.

3 (3) Forests, grasslands, and wetlands in the State  
4 constitute significant economic, biological, and aesthetic  
5 resources of statewide importance. Prescribed burning  
6 prepares sites for planting, removes undesirable competing  
7 vegetation, accelerates nutrient cycling, controls certain  
8 pathogens and noxious weeds, and promotes oak  
9 regeneration. In these communities, prescribed burning  
10 improves and maintains the quality and quantity of wildlife  
11 habitats.

12 (4) Prescribed burning reduces naturally occurring  
13 vegetative fuels. Reducing the fuel load reduces the risk  
14 and severity of wildfires, thereby reducing the threat of  
15 loss of life and property.

16 (5) Federal and State agencies promote and subsidize  
17 fire dependent vegetative communities and recommend  
18 prescribed burning as an essential management practice for  
19 many funded programs.

20 (6) Proper training in the purposes, use, and  
21 application of prescribed burning is necessary to ensure  
22 maximum benefits and protection for the public.

23 (7) Prescribed burning in the hands of trained,  
24 skilled, and experienced people is safe and often the most  
25 cost effective management technique to accomplish many  
26 ecosystem restoration objectives and ecological goals.

1           (8) A public education program is necessary to make  
2           citizens and visitors aware of the public safety, natural  
3           resource, and economic benefits of prescribed burning and  
4           its use as a land management tool.

5           (9) As development and urbanization increase in the  
6           State, pressures from liability issues, and nuisance  
7           complaints will inhibit the use of prescribed burning.

8           (b) It is the purpose of this Act to authorize and to  
9           promote the continued use of prescribed burning for ecological,  
10          forest, wetland, wildlife management, and grassland management  
11          purposes.

12          Section 10. Definitions. As used in this Act:

13          (a) "Prescribed burning" means the planned application of  
14          fire to naturally occurring vegetative fuels under specified  
15          environmental conditions and following appropriate  
16          precautionary measures, which causes the fire to be confined to  
17          a predetermined area and accomplish the planned land management  
18          objectives.

19          (b) "Certified prescribed burn manager" means an  
20          individual who successfully completes an approved training  
21          program and receives proper certification.

22          (c) "Prescription" means a written plan for conducting a  
23          prescribed burn.

24          (d) "Department" means the Illinois Department of Natural  
25          Resources.

1 Section 15. Requirements; liability.

2 (a) Before a prescribed burning is conducted under this  
3 Act, the Department shall:

4 (1) obtain the written consent of the landowner or his  
5 or her designee;

6 (2) require that a written prescription be approved by  
7 a certified prescribed burn manager; and

8 (3) require that at least one certified prescribed burn  
9 manager is present on site with a copy of the prescription  
10 while the burn is being conducted.

11 (b) No property owner or his or her agent, conducting a  
12 prescribed burn pursuant to the requirements of the Act, shall  
13 be liable for damage or injury caused by fire or resulting  
14 smoke, unless gross negligence is proven.

15 (c) A prescribed burning, conducted under this Act, shall  
16 be considered (i) in the public interest and shall not  
17 constitute a public or private nuisance when conducted in  
18 compliance with Section 9 of the Illinois Environmental  
19 Protection Act (415 ILCS 5/9) and other State statutes and  
20 rules applicable to prescribed burning and (ii) a property  
21 right of the property owner if naturally occurring vegetative  
22 fuels are used and when conducted pursuant to the requirements  
23 of this Act.

24 Section 20. Rules. The Department, in consultation with the

1 Office of the State Fire Marshall, shall promulgate rules to  
2 implement this Act, including but not limited to, rules  
3 governing prescribed burn manager certification and revocation  
4 and rules governing prescribed burn prescriptions.

5 Section 25. Exemption. Nothing in this Act shall be  
6 construed as requiring certification as a prescribed burn  
7 manager to conduct prescribed burning on one's own property or  
8 on the lands of another with the landowner's permission.  
9 Section 15 (b) shall not apply to prescribed burns conducted  
10 under this exemption.

11 Section 30. Fees. The Department may charge and collect  
12 fees from persons applying for safety training and  
13 certification as a certified prescribed burn manager.

14 Section 35. Severability. The provisions of this Act are  
15 severable under Section 1.31 of the Statute on Statutes.

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.